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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,951	02/08/2000	TATSUO J. CHIGIRA	B208-1076	1936
26272	7590	05/19/2004	EXAMINER	
ROBIN BLECKER & DALEY 2ND FLOOR 330 MADISON AVENUE NEW YORK, NY 10017			NGUYEN, KEVIN M	
			ART UNIT	PAPER NUMBER
			2674	23

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/499,951

Applicant(s)

CHIGIRA, TATSUO J.

Examiner

Kevin M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/06/2004 has been entered. An action on the RCE follows:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 10 is rejected under 35 U.S.C. 102(e) as being anticipated by Kobayashi et al (previously cited, US 6,441,978).

2. As to claim 10, Kobayashi et al teach a head mounted display device (HMD) which includes

[recited in lines 2-4 of claim 10]

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a front frame 10F, a display part 41 (figure 4, col. 10, lines 55-56), the left and right rear frame 10L and 10R connect to two end parts of said front frame 10F by hinge parts (10RH, 10Lh, fig. 4);

[recited in lines 5-6 and lines 9-10 of claim 10]

the main frame 10M includes a head push member 10F, which is held in forced contact with front head portion 2F (col. 11, lines 1-2);

[recited in lines 7-8 of claim 10]

the frame 10 includes the left and right rear frame 10L and 10R that uses elastic member and is simplified in construction (col. 11, lines 9-10).

[recited in lines 11-13 of claim 10]

the left and right rear frames 10L and 10R are hinged by the hinges 10Lh and 10Rh which serve as the coupling mechanisms to the main frame 10M (col. 11, lines 30-33). Therefore, the hinges 10Lh and 10Rh perform a function of folding state of the left and right rear frames 10L and 10R with respect to the front frame 10F when the head mounted display device is not used.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1 and 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al (previously cited, US 6,441,978) in view of Morel (newly cited, US 4,534,628).

As to claims 1 and 7, Kobayashi et al teaches a head mounted display device (HMD) which includes a front frame 10F, holding member 10C (figure 4, col. 10, lines 55-56), a mount pad 2F, a head 2F, a viewer M, a display part 41, the hinges 10Lh and 10Rh (col. 11, lines 27-33); the frame 10 includes the left and right rear frame 10L and 10R that uses elastic member and is simplified in construction (col. 11, lines 9-10).

Kobayashi et al fails to teach each of said frames comprises an elastic member and a core member longitudinally inserted in the elastic member and the thickness of the elastic member relative to the core member is preferably arranged to be thicker on the inner side of the core member.

However, Morel teaches spectacles comprising a left side frame and a right side frame, at least one of side frame comprising an elastic envelope elastic 8 (an elastic member, fig. 1) covered a side 5 (a core, fig. 1, abstract).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify each Kobayashi's rear frame including the elastic envelope elastic 8 covered a side 5, in view of the teaching in the Morel's reference because this would provide a comfortable wearing without the risk of hurting the ears as taught by Morel (col. 1, lines 9-11)

As to claim 4, Kobayashi et al teaches the left and right rear frames 10L and 10R being hinged by the hinges 10Lh and 10Rh which serve as the coupling mechanisms to

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the main frame 10M (col. 10, lines 52-54). Therefore, the hinges 10Lh and 10Rh perform a function of folding state of the left and right rear frames 10L and 10R with respect to the front frame 10F when the head mounted display device is not used.

As to claims 5, 6 and 8, Kobayashi et al teach the side frames including elastic force the left and right rear frames 10L and 10R being formed by using a plastic material among polyamide, polycarbonate having a hole communicating with said inserting hole is formed also in said elastic member as shown in figure 4 (col. 11, lines 13-17).

Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al in view of Morel, and further in view of Chiou (previously cited).

3. As to claims 3 and 9, Kobayashi and Morel teaches all of the claimed limitations, except for one of the earphone holding members is arranged to further hold a cable connected to the display part.

Chiou teaches one of earphone holding members (14) is arranged to further hold a cable (32) connected to the part (4) (see figure 4, column 3, lines 24-35).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to provide each Kobayashi's side frame including one of earphone holding members (14) is arranged to further hold a cable (32) connected to the part (4), in view of the teaching in the Chiou's reference because this would be comfortably positioned in the user's ears without presenting any burden thereto and which can also be easily replaced with new receiving means if a malfunction occurs (column 2, lines 19-22 of Chiou).

Response to Arguments

4. Applicant's arguments filed 05/06/2004 have been fully considered but they are not persuasive.

In response to applicant's argument that claims 1 and 7 recite "each of said frames comprises an elastic member and a core member longitudinally inserted in the elastic member and the thickness of the elastic member relative to the core member is preferably arranged to be thicker on the inner side of the core member."

This argument is not persuasive because Morel's invention teaches spectacles comprising a left side frame and a right side frame, at least one of side frame comprising an elastic envelope elastic 8 (an elastic member, fig. 1) covered a side 5 (a core, fig. 1, abstract).

In response to applicant's argument that claim 10 recites "the elastic members are arranged to be located on the outside of the display part in a state obtained when the right and left frames are folded with respect to the front frame."

This argument is not persuasive because Kobayashi et al's invention teaches the left and right rear frames 10L and 10R are hinged by the hinges 10Lh and 10Rh which serve as the coupling mechanisms to the main frame 10M (col. 11, lines 30-33). These arguments are not persuasive because; therefore, the hinges 10Lh and 10Rh perform a function of folding state of the left and right rear frames 10L and 10R with respect to the front frame 10F when the head mounted display device is not used.

For these reasons, the rejections based on Kobayashi et al, Morel and Chiou have been maintained.

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Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Kevin M. Nguyen** whose telephone number is **703-305-6209**. The examiner can normally be reached on MON-THU from 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richard A Hjerpe** can be reached on **703-305-4709**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered response should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Kevin M. Nguyen
Patent Examiner
Art Unit 2674

KN
May 14, 2004


XIAO WU
PRIMARY EXAMINER